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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,998	01/22/2004	Rebecca M. Minard	49339-C	6201

21874 7590 08/26/2005

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,998

Applicant(s)

MINARD ET AL.

Examiner

NEIL LEVY

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-127 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 76-127 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's arguments filed 6/16/05 have been fully considered but they are not persuasive. Applicant has presented new claims based on old, with 15% instead of the non-rejected 5%, in all references but GB-1474931, not addressed by applicant & still anticipatory over claims now newly presented based on old claims, or at least obvious over new claims. Rejections not maintained have been withdrawn as cumulative or overcome with Terminal Disclaimer, or reconsideration in view of amendments.

Claim Rejections - 35 USC § 102

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 92-94 stand rejected under 35 U.S.C. 102(b) as being anticipated by Phillippi- 5377620

New claims are similar to rejected, except as requiring < 15% error in weight of feed material. However, Phillippi (col. 5, bottom col. 6 lines 41-44) indicates the amount of feed is known, thus determined by feeder, & not at such error as instantly claimed

Claims 76-91, 95-111, 115-123, & 127 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB-1474931.

The rejection of record is maintained over re-written new claims, & extended for the following reasons, upon re-reading of GB: there are 1-6 sections (P.2, lines 1-6); the weight of the feed components for each section is in fact known, thus precise, & not outside of the error associated with weighing, by one in the feed & nutritional arts (P2, lines 21-27)

Claims 92, 93, 112, 113, 124, 125 are rejected under 35 U.S.C. 103(a) as being obvious over GB-1474931 and Magnant et al- 5787839.

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GB- (above) provides the instant claimed methods of administering specified amounts of specified feeds & feed components to specified animals, but does not describe a rigid containerization system. MAGNANT (of record) does (fig. 4,9, col3, top).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize a container for feed, to use any of art recognized means, as of GB , Magnant. Motivation to use a specific container is shown by Magnant, for travel, and exact ratios and amounts of feeds are within the purview of one in the art to attain, in order to optimize desired effects, such as control of specific nutritional needs, amount of feed depending on size, age, sex, & desires of the target.

All the critical elements of the instant are disclosed. The amounts and proportions of each ingredient are result effective parameters chosen to obtain the desired effects. It would be obvious to vary the form of each ingredient to optimize the effect desired, depending upon the particular pet of interest, reduction of toxicity, cost minimization, enhanced, and effects, with consideration of ingredient compatibility.

There is no non obvious and/or unexpected results obtained since the prior art is well aware of the use of feed for control of health and the use of nutrients & amounts thereof for the functionality for which they are known to be used is not a basis for patentability.

Claims 114, 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillippi In view of NUTRITION WORKS '97

Phillippi(above) provides the instant horse feeds & containers, but not of polymer construction. NUTRITION WORKS ad shows plastic rigid covered pails of feeds & feed supplements, but not multi-sectioned..

It would have been obvious to a person of ordinary skill in the art at the time the invention was made desiring to utilize a container for feed, to use any of art recognized construction means, as of Nutrition Works. Motivation to use a specific container is self evident to one in the art; durable stable containerization construction is required, but the advent of such plastics was not in evidence at the time of Phillippi. All the critical elements of the instant are disclosed.

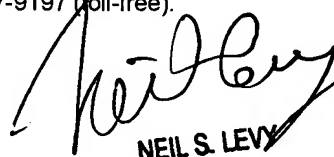
There is no non obvious and/or unexpected results obtained since the prior art is well aware of the use of polymers for construction of feed containers control , and the use of materials for the functionality for which they are known to be used is not a basis for patentability.

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.Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on T_F from 7 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN PAGE, can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NEIL S. LEVY
PRIMARY EXAMINER